



Scott County
Board of Adjustment
October 12, 2020
6:30PM

Scott County Government Center
County Board Room
200 Fourth Avenue West
Shakopee, MN



Scott County

October 12, 2020 Board of Adjustment

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**SCOTT COUNTY
BOARD OF ADJUSTMENT**

**Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota**

**Monday, October 12, 2020
County Board Room at 6:30 PM**

AGENDA

I. ROLL CALL AND INTRODUCTIONS

II. APPROVAL OF SEPTEMBER 14, 2020 BOA MINUTES

**III. PUBLIC HEARING – 6:30 PM MESENBRINK VARIANCE (PL#2020-046) TABLED FROM THE
SEPTEMBER 14, 2020 PLANNING ADVISORY COMMISSION AGENDA**

A. Request for a Variance to Reduce the Required Lot Width From 100 Feet to 66 Feet.

Location:	Section 10
Township:	Credit River
Current Zoning:	UER

IV. GENERAL & ADJOURN



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINTUES

Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota

Monday, September 14, 2020 6:30PM

I. ROLL CALL AND INTRODUCTIONS

Chair Gary Hartmann opened the meeting at 6:30 PM with the following members present: Donna Hentges, Thomas Vonhof, Barbara Johnson, Ray Huber. Ed Hrabe and Lee Watson were present by phone through Skype teleconference.

County Staff Present: Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Nathan Hall, Associate Planner; Kiara Swanson, Video Technician; Tom Wolf, County Board Commissioner; and Deputy Clerk to the Board, Barb Simonson.

II. APPROVAL OF AUGUST 10, 2020 BOARD OF ADJUSTMENT MINUTES.

Motion by Commissioner Johnson; Second by Commissioner Vonhof to approve the August 10, 2020 BOA minutes. The motion carried unanimously as noted below.

Chair Hartmann called for a roll call vote with results as follows:

Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye

The motion passed with 7 Ayes

III. PUBLIC HEARING 6:30 PM MESENBRINK VARIANCE (PL#2020-046)

A. Request for a Variance to Reduce the Required Lot Width from 100 feet to 66 feet.

Location: Section 10
Township: Credit River
Current Zoning: UER

Principal Planner Greg Wagner provided a brief description of the current request and noted there has been a change in the situation. Mr. Wagner presented a memo from the Credit River Town Board on the matter. The matter will be tabled to a future Board of Adjustment meeting as the applicant and township have agreed to modify the request. The applicant will bring a new request forward with the recommended changes. Mr. Wagner noted that Commission does not need to make a motion or action on this item since Staff, Township and Applicant are requesting the matter be tabled until the next meeting.

IV. PUBLIC HEARING 6:35 PM BRANDON HALL VARIANCE (PL#2020-056)

- A. Request for a Variance From the Required Minimum Lot Size of 40 Acres in the Urban Transition Reserve District to a 1.95 Acre Parcel.

Location: Section 13
Township: Helena
Current Zoning: UTR

Planner Nathan Hall presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website: [September 14, 2020 Board of Adjustment Agenda Packet](#).

(To view the staff report or video on the website, www.scottcountymn.gov, click on the download arrow and click on Agenda, Save and Open. Next open the bookmark at the top of the page and click on the Hall Variance project.)

Comments and Questions from the Commissioners:

Commissioner Huber asked about the applicants plans for the existing garage. *Mr. Hall reported the applicant will be abandoning the septic system and removing the living quarters from the garage.*

Chair Hartmann commented on his site visit to the property and his visit with the applicant about their plans for the property. He asked about the township's right to farm ordinance and what it means. *Mr. Hall explained what he knew about the ordinance and it is mainly to make the new owners aware of area farming that may occur around the property.*

Chair Hartmann opened the meeting up to the public:

Noting no comments from the public there was a motion by Commissioner Vonhof; second by Commissioner Huber to close the public hearing. The motion carried unanimously.

Motion by Commissioner Huber; second by Commissioner Hentges to approve the variance based on the criteria listed in the staff report, I recommend approval of the requested variance to reduce the 100 foot lot width to 66 feet.

Chair Hartmann called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

The motion passed with 7 Ayes

Criteria for Approval – Practical Difficulties:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*

The Comprehensive Plan guides this property as Urban Transition for very long-range urban development. The lot size is significantly larger than a typical urban sized lot and therefore would not conflict with the Comprehensive Plan.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

The lot was created in the mid 1970's when zoning regulations require a larger lot size and width. The extraordinary circumstance in this case is that the structure continued to be occupied for approximately 40 years after the previous owner was convicted of a zoning violation for using the structure as a residence. The residential use of the property and the real estate listing would certainly suggest that residential uses would be permitted here.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

The use of the applicant's property for the construction of a single-family home is consistent with how other properties in the area are used. Because of changes to the minimum lot size in this area over the years most of the lots around the applicants don't meet the current minimum lot size of 40 acres. The applicant's circumstance is unique, staff is not aware of any other lot in the County where there has been a non-conforming residential use occurring for the past 40 years. In addition, this same variance was approved in 2013.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

The property had been used residentially for approximately 40 years and the real estate listing advertised the property as residential. The buyer most likely would have had no knowledge that in 1976 a prior owner was charged and convicted of using the property as a residence in violation of the Zoning Ordinance. Nothing was recorded against the parcel to indicate the residential use was non-conforming and it appears that no action was taken by the County after the conviction to remove the living quarters from the garage. In addition, this same variance was approved in 2013.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting the variance would allow the applicants to replace the existing small non-conforming living quarters on the property with a home. While this would be a special privilege granted to the applicant staff is not aware of any other any properties in the County where there has been a non-conforming residential use occurring for the past 40 years.

6. *The variance requested is the minimum variance which would alleviate the practical difficulties.*

The requested variance to the 1.95-acre lot is the minimum necessary to alleviate the practical difficulties.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not be detrimental or alter the character of the properties in the zoning district or the immediate neighborhood. The use of the lot for a single-family residence is consistent with how the other properties in the area are use. Not approving the variance would be more detrimental to the area as the lot and structure would only be able to be used for storage which is inconsistent with how other properties in the area are used.

8. *Economic considerations alone do not constitute a practical difficulty.*

There is an economic component to this request without the variance the value of the property is significantly less than it is as a building site.

V. GENERAL & ADJOURN

Motion by Commissioner Huber; second by Commission Johnson to adjourn the meeting at 6:47 PM. The motion carried unanimously at noted below.

Chair Hartmann called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye
Commissioner Watson: Aye**

Meeting was adjourned.

**Gary Hartmann
Chair, Board of Adjustment**

Date

**Barbara Simonson
Deputy Clerk to the Board**

Date



STAFF REPORT PREPARED FOR TOWNSHIPS & COUNTY BOARD OF ADJUSTMENT

GOVERNMENT CENTER 114 · 200 FOURTH AVENUE WEST · SHAKOPEE, MN 55379-1220
www.scottcountymn.gov

Mesenbrink Variance #PL2020-0046

Request:

A variance from the required 66 foot lot frontage on a publicly maintained road.

Greg Wagner, Principal Planner, is the project manager and is available for questions at 952-496-8360

General Information:

Applicant:	John Mesenbrink	Site Location:	17963 Natchez Avenue
Property Owners:	John & Mary Mesenbrink	Township:	Section 10, Credit River
Public Hearing Date:	October 12, 2020	Action Deadline:	December 3, 2020

Zoning/Comprehensive Plan Information:

Zoning District:	Urban Expansion Reserve Cluster	Comprehensive Land Use Plan:	Urban Expansion
Overlay Zoning District:	Shoreland	School District:	Lakeville #194
Watershed District:	Scott WMO	Fire District:	Prior Lake Fire
Ordinance Sections:	Chapters 2 & 31	Ambulance District:	Allina Transportation

Report Attachments:

1. Site Location Map
2. Aerial Photo
3. Application letter dated July 28, 2020
4. Certificate of Survey dated September 18, 2020

Request:	A variance from the required 66 foot lot frontage on a publicly maintained road.
Comprehensive Plan-	The property was guided Urban Expansion Reserve under the 2030 Comprehensive Plan. Since Credit River Township plans to assume land use authority the township was not included in the 2040 Comprehensive Plan Update.
Adjacent Land Use/Zoning-	<u>North</u> – Murphy Hanrehan Park Reserve, zoned UER <u>South</u> – 120 acre agricultural parcel, zoned UER <u>West</u> – 2.5 - 5 acre residential lots, zoned UER & UER-C <u>East</u> – Murphy Hanrehan Park Reserve, zoned UER
Existing Conditions-	The 95.32 acres is a mix of agricultural land, woodland, and wetland. There are five detached accessory buildings on the property, as well as a single family home.
Ordinance Requirements-	<u>Density</u> – 1 dwelling unit per 40 acres <u>Lot Size</u> – 1 acre of non-hydric land and the ability to locate a home and two (2) individual sewage treatment systems, which all meet applicable setback requirements. <u>Lot Width</u> – 100 feet from the front setback line maintained to the primary building site <u>Structure Setbacks:</u> Front Yard: 30 feet from local road right-of-way Side Yard: Thirty (15) feet Rear Yard: Sixty (30) feet
Proposed Development-	<u>Density</u> – 1 dwelling unit per 40 acres <u>Lot Size</u> – 7.3 acres for existing home; The remaining parcel will be 88.02 acres. <u>Lot Width</u> – Lot width is 444 feet. The applicants have requested a variance from required lot frontage on a publicly maintain road. <u>Setbacks</u> – The existing house meets all required setbacks, which were verified at time of building permit.
Existing Roads-	The property has frontage on Natchez Avenue, a paved Credit River Township road.
Proposed Roads-	No new roads are proposed for this project.
Public Hearing Notice-	Required public hearing notices were mailed to all adjacent property owners within 500 feet of the property.

Site Photo: View of the existing 95 acre parcel and home location is indicated by arrow



Background:

John and Mary Mesenbrink are proposing to split off an existing single family home on approximately 7.5 acres of their 95.32 acre parcel located in section 10, Credit River Township. The 95.32 acre parcel is a mix of open agricultural land, woodlands, and wetlands, and the parcel borders Murphy Hanrehan Park Reserve on the east and north boundaries. The parcel has several detached accessory buildings scattered through the property, and the applicants built a home on the parcel in 2019 for a family member that they are now requesting to separate from the larger parcel.

The parcel is zoned Urban Expansion Reserve, UER, which requires a 40 acre lot size so the applicants are requesting a rezoning to the Urban Expansion Reserve Cluster, UER-C, zoning district, which allows a 1 acre minimum lot size. Both zoning districts have a 1 dwelling unit per 40 acre development density, and parcels over 40 acres are allowed to subdivide existing homes administratively. As previously proposed the applicants were going to have a 66 foot strip of land running from the road back to the existing homesite. After review with Credit River Township the township requested that the 66 foot strip be removed as these strips can pose an issue with future extension of utilities. Credit River Township will be assuming land use controls later this year, and their long term land use plan is for this area to urbanize with utility services.

The applicants have revised their survey to now show a 4.29 acre parcel (Parcel B) with no land strip out to the public road. They have also revised their variance request to a variance from the required 66 foot lot frontage on a publicly maintained road. There is a recorded easement for road and driveway purposes across the southern 66 feet of the Mesenbrink property, over the area of the existing driveway, that would be utilized by the existing home as well as the lot/home to the north.

Analysis:

The previous request included the 66 foot strip extending out to the public roadway, but after the township board had an opportunity to meet and review their concern was over the 66 foot strip impeding future utility (sewer and water) services along Natchez Avenue. The township planner provided examples of where similar land strips became barriers or costly impediments to utility extensions along roads between larger developable tracts of land. The applicants indicated it was their preference to create the parcel with an easement so with the support of the township they amended their request.

County staff has no issue with the survey revision using the existing road/driveway easement to provide access to the parcel. The larger Mesenbrink parcel (Parcel A) would have development potential under the township's future land use plan that can provide local road access when the

property further develops. The requested variance does not grant the applicants any special privilege or alter the character of the properties in the area, and it eliminates a potential impediment to future development of this parcel and adjacent properties

Township Recommendation:

The Credit River Town Board recommended the modification to the lot layout based on their future land use plan, and this revised survey and variance request will be forwarded to the Township for review at their October 5, 2020 monthly meeting. A copy of the recommendation will be provided at the public hearing.

Staff Recommendation:

Based on the project information submitted by the applicant and subject to the criteria for practical difficulty, staff recommends approval of the requested variance.

Criteria for Granting Variances:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*

The Comprehensive Plan guides this parcel as Urban Expansion Reserve under the County's 2030 Land Use Plan. Credit River Township guides this area for future urban densities and supports the variance for orderly future extension of utility services.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

An existing accessory building, constructed in 1996, prohibits the existing home lot from having a full 100 foot wide strip of land that would satisfy the County's lot width standard. A 66 foot strip, the regulation in place in 1996, is feasible but it would create a possible impediment to orderly extension of future sewer and water services along the township road.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

There is another land locked parcel encompassed by this property, and there are other land locked properties in the neighborhood due west of this property across Natchez Avenue. This request, while now uncommon, would not be unique in this area of the township.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

The requested variance would help future orderly development of the area by eliminating a strip of land out to a public roadway, which is not driven by actions of the applicants.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting of the requested variance would not confer the applicant any special privilege, as it would allow a parcel to be created with an access easement similar to other lots in the area.

6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*

The requested variance allows a 4.29 acre, square lot to be created around the existing home. It eliminates a 2,030 foot strip of land that would be unusable by this property except for having the existing, shared driveway. John & Mary Mesenbrink will retain ownership of the driveway over which they have a road easement they could utilize for further development of their remaining 91 acres.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not alter the character of the property or the area since the adjacent since historical development in the immediate area also has land locked properties with shared driveways and easements.

8. *Economic considerations alone do not constitute a practical difficulty.*

Economic considerations are not suggested as a reason for this variance request. The township supports this request to assist with future orderly extension of public utilities.

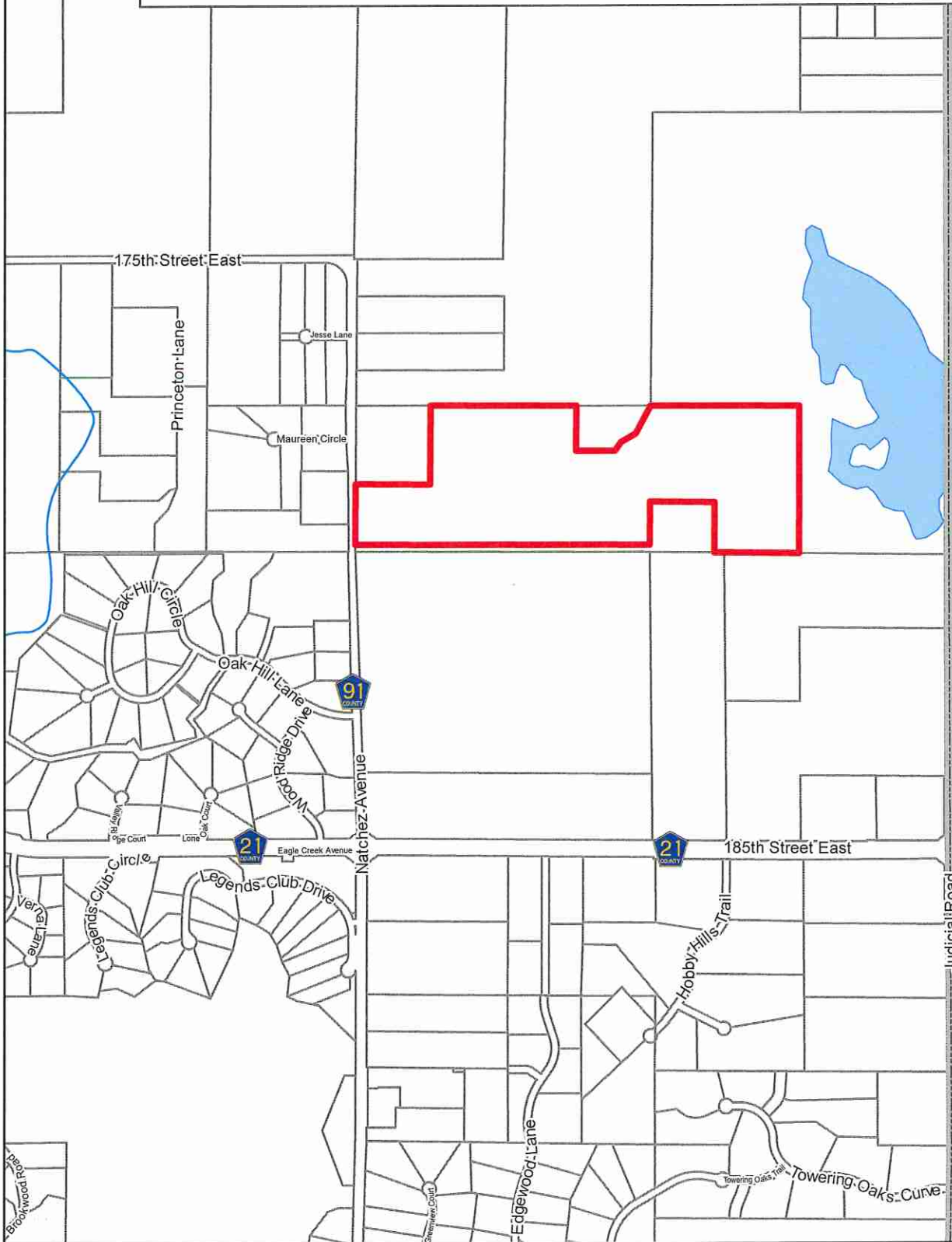
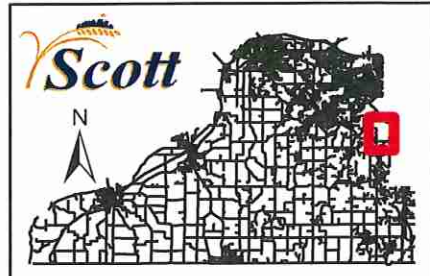
Board of Adjustments/Township Alternatives:

1. Approve the variance request as recommended by zoning staff based on the practical difficulty criteria as detailed in this report.
2. Approve the variance request with amendments to the requested variance and to the practical difficulty criteria.
3. Table the variance request for a specific reason.
4. Deny the variance request for a specific reason.

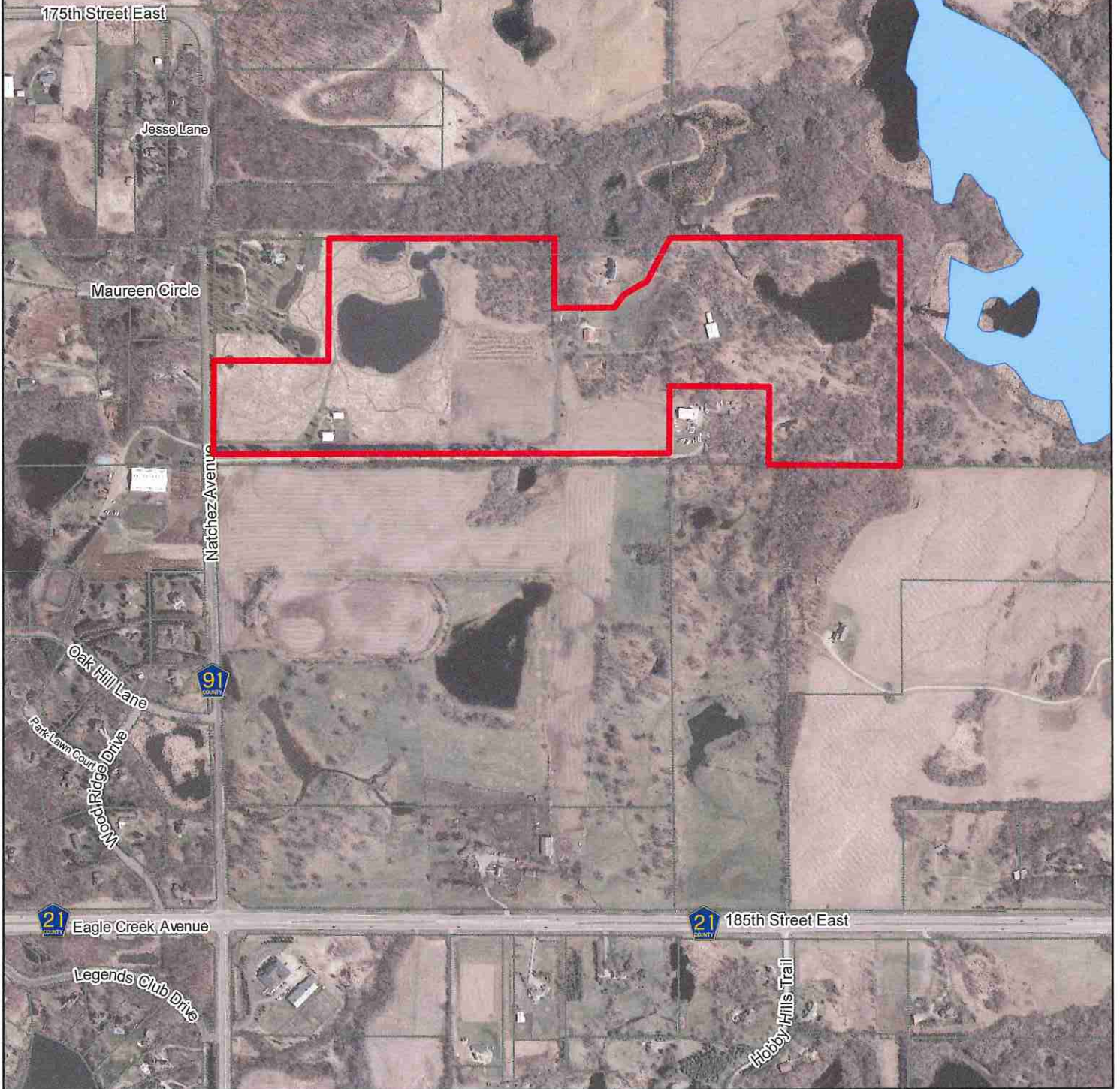
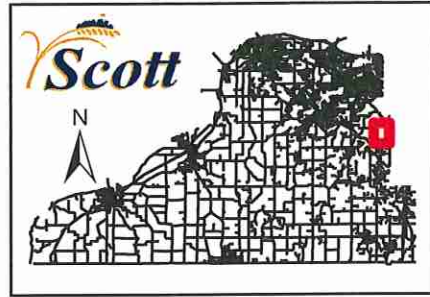
Suggested Motion for Board of Adjustments or Township Board:

Based on the findings listed in the staff report, I recommend approval the variance from the required 66 foot lot frontage on a publicly maintained road.

**CREDIT RIVER TOWNSHIP
SECTION 10
JOHN & MARY MESENBRINK
REQUEST FOR VARIANCE**



**CREDIT RIVER TOWNSHIP
SECTION 10
JOHN & MARY MESENBRINK
REQUEST FOR VARIANCE**



July 28, 2020

Scott County Zoning Administration
200 Fourth Avenue West
Shakopee, MN 55379

To whom it may concern:

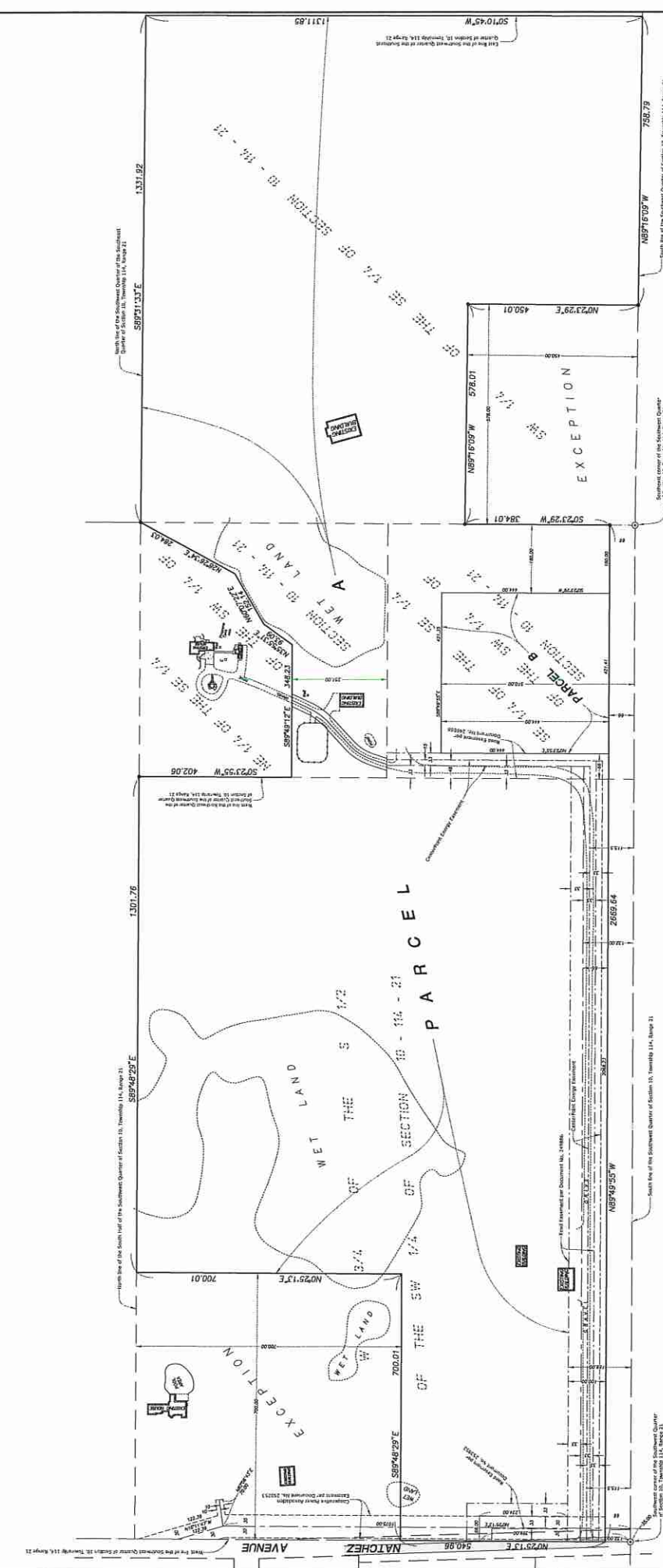
I am asking to rezone my property from UER to UER-C to split off a parcel for my daughter's home.

I am asking for a variance for the lot width from 100 foot wide to 66 foot wide due to the obstruction from one of our out buildings then back to the 100 foot width the rest of the way to the street.

Thank you,


John Mesenbrink

Survey for: JOHN & MARY MESENBRINK



PARCEL A DESCRIPTION

That part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

EXISTING PROPERTY DESCRIPTION

That part of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

PARCEL B DESCRIPTION

The North 44.00 feet of the South 44.00 feet of the Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:

The Southwest Quarter of the Southwest Quarter of Section 10, Township 14N, Range 21E, Scott County, Minnesota, which has the following described front:



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